

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RAYMOND RICHARD WHITALL, G43090,

Plaintiff,

v.

S. PALOMARES, et al.,

Defendant(s).

Case No. [20-cv-01441-CRB](#) (PR)

**ORDER OF DISMISSAL WITHOUT  
PREJUDICE**

(ECF No. 7)

On July 1, 2020, the court dismissed plaintiff's complaint with leave to amend, within 28 days, "to allege a possible Fourth Amendment and/or retaliation claim under § 1983 against the individual correctional officers, if he can."

On July 17, 2020, plaintiff filed a motion for "an extension of time until December 28, 2020" to file an amended complaint so he can exhaust available administrative remedies as to his Fourth Amendment and retaliation claims. ECF No. 7 at 1. Alternatively, he seeks a "voluntary dismissal . . . without prejudice to filing a new complaint with the added claims of retaliation and illegal search and seizure." *Id.* at 2.

Plaintiff's motion for a lengthy extension of time to amend in order to exhaust available administrative remedies is DENIED. *See Vaden v. Summerhill*, 449 F.3d 1047, 1051 (9th Cir. 2006) (prisoner plaintiff should exhaust before filing suit). But his alternative request for a voluntary dismissal without prejudice is GRANTED. *See* Fed. R. Civ P. 41(a).

The clerk is instructed to terminate the motion at ECF number 7 and close the file.

**IT IS SO ORDERED.**

Dated: August 6, 2020



CHARLES R. BREYER  
United States District Judge